THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

W.P. Nos. 13940, 14491 and 14578 of 2007

COMMON ORDER: (Per the Hon'ble Smt. Justice T. Meena Kumari)

These writ petitions are filed by the petitioner-Department aggrieved by the orders passed by the A.P. Administrative Tribunal dated 17.5.2007 in O.A. 2797 of 2007, dated 17.5.2007 in O.A. 2798 of 2007 and dated 2.5.2007 in O.A. 1197 OF 2007 respectively. As the issue involved in all these writ petitions is similar, they are disposed of by this common order.

Heard the learned counsel for the parties and perused the material available on record.

The main contention urged by the learned Government Pleader for Services-I, appearing for the petitioners, is that the promotions have been effected to the posts of Deputy Superintendents of Police up to 1976 Batch and as the final seniority list has not been prepared, the onward promotions from 1976 Batch could not be effected and the Tribunal gravely erred in directing to prepare tentative seniority list of Inspectors of Police in accordance with the instructions submitted through the learned Government Pleader i.e. taking into account the date of appointment in the

category of Inspector of Police within a period of two weeks from the date of receipt of the order and effect temporary/adhoc promotions to the category of Deputy Superintendents of Police in accordance with the directions given in the judgment in O.A. No. 1197 of 2003 dated 2.5.2007. It is contended by the learned Government Pleader that there are practical difficulties in implementing the orders passed by the Tribunal, like the applicability of G.O.Ms.No. 610 to the posts and hence there is likelihood of delay.

The above contention has been rebutted by the learned counsel appearing for the respondents stating that according to the tentative seniority list of the 1978 Batch, some of the officers who are working in the rank of Inspectors of Police and the unofficial respondents herein are due to retire on 31.08.2007, 31.12.2007, 30.09.2007, 31.10.2007. According to him, the persons standing at Sl.Nos. 6, 9, 22 and 26 are going to retire on the abovementioned dates. It is also contended that the Department cannot take shelter under the applicability of G.O.Ms.No. 610 as the issue in the present writ petitions is altogether different and therefore the learned Government Pleader is not entitled to argue with regard to G.O.Ms.No. 610 in the present circumstances of the case.

We also had an occasion to go through the material placed before this Court. Before the Tribunal, the instructions issued by the Department to the learned Government Pleader who appeared

before the Tribunal were as follows:

> "With reference to the Government Pleader's letter cited, it is informed that there are 6 Ranges in the State as far as Police Department is concerned. The DIG of concerned Range is the appointing authority. The post of SI shall be filledin in that particular Range in the Ratio of 70:30 by direct recruits and promotees.
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> After selection of Sis by direct recruitment, the required number are allotted to each Range according to the requirement of Range after their training. In some Ranges the SIs are getting promotion much earlier than their seniors in other Ranges. Similarly, vis-à-vis the seniors in other Ranges are getting late promotions thereby such of the Sis who got promotion earlier will become seniors to others, though they are seniors in the merit list drawn up at the time of their appointment. The criteria for promotion of Inspectors to DSPs is the length of service in the post of Inspector.
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> For promotion of Inspectors as DSP, an inter se seniority list of all Ranges has to be prepared and such of the Inspectors who are found fit for promotion will be included in the panel by the DPC.
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> From this panel, after approval by the Government promotions to the rank of DSPs will be ordered. Government issued an integrated seniority list of Inspectors of all Rangers in G.O.Ms.No. 361, Home (Ser.I)Department dated 19.12.2002. In this lsit, the Inspectors of Kurnool Range of 1978 batch Sis have not figured as they are juniors in the rank of Inspectors to the Inspectors included in this G.O. The last Inspector included in the said G.O. was promoted as Inspector on 13.1.93. The last Inspector promoted as DSP from the said list is Sri T. Naganna and his date of promotion as Inspector is 19.10.90. There are 37 Inspectors of Kurnool Range. They were promoted as Inspectors on 14.8.93.
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> As on date there is no valid

seniority list of Inspectors for preparation of panel for DSPs in continuation to above G.O.

In O.A. No. 1197/07 filed by Inspectors of Guntur Range the APAT delivered the judgment on 2.5.2007 and the operational portion of the judgment is reproduced hereunder.

"However the appointing authority has power under Rule-10 of AP State and Subordinate Service Rules 1996 to effect promotions on temporary basis in public interest in case of emergency and when there is likelihood of undue delay in finalizing the panel. But such adhoc promotions can only be effected as per rules and from a temporary panel prepared on the basis of tentative state wide seniority list of the Inspectors of Police, representing all the ranges, that too for a short period. The respondents are further directed to finalize the statewide seniority list of Inspectors of Police representing all the ranges within a period of 3 months from the date of receipt of this order. If, for the reasons beyond their control, it cannot be effected the respondents are at liberty to approach this Tribunal for extension of time, after giving due notice to the applicants. This does not prevent the respondents to effect promotions to the Inspectors of Police whose seniority list was finalized and published in G.O.Ms.No. 361, Home (Ser.I) Department dated 19.12.2003. VMAs are disposed of".

As directed by the APAT, a tentative seniority list of Inspectors of all Ranges is under preparation. After its preparation, the Inspectors of Kurnool Range of 1978 batch will be included in the seniority list at appropriate place with reference to their dates of promotion as Inspectors. Unless a tentative seniority list of all ranges is prepared and fixed the seniority of Inspectors of Police of Kurnool Range in the seniority list at appropriate place, their cases alone cannot be considered for promotion as DSPs ignoring the

> claims of the promotions of other Range Inspectors who are eligible. Soon after the tentative seniority list is prepared, action will be taken for temporary promotions. No injustice will be done to the applicants and all the cases will be decided on merit".

It was further stated in the counter affidavit filed before the Tribunal, "there are 72 posts of Deputy Superintendents of Police to be filled immediately in view of the prevailing law and order situation in the State". Therefore, the Tribunal rightly held that in view of such material available for preparation of integrated seniority list of all ranges and in view of the law and order prevailing in the State, 72 vacant posts of Deputy Superintendets of Police cannot be continued eternally. Therefore, the Tribunal gave a direction to the respondents – petitioners herein to prepare tentative seniority list of Inspectors of Police in accordance with the instructions submitted through the learned Government Pleader i.e. taking into account the date of appointment in the category of Inspector of Police within a period of two weeks from the date of receipt of this order and effect temporary/ad hoc promotions to the category of Deputy Superintendents of Police in accordance with the directions given in the judgment in O.A. No. 1197 of 2007 dated 2.5.2007 within a further period of two to three weeks thereafter.

The material placed before the Tribunal goes to show that the promotions to the posts of Deputy Superintendents of

Police have been effected up to 1976 batch and promotions are due to the Sub-Inspectors of Police of 1978 batch.

The seniority list of Sub-Inspectors of 1978 batch produced by the unofficial respondents before this Court goes to show that the persons at Serial Nos. 6, 9, 2 and 26 are going to retire on 31.8.2007, 31.12.2007, 30.9.2007 and 31.10.2007 respectively. Having regard to the facts and circumstances, we find some force in the contention of the learned counsel for the respondents that as the posts remained unfilled, the present incumbents are going to retire within a short period and are deprived of their legitimate promotions to the posts of Deputy Superintendents of Police to which they are entitled even on temporary basis. In the affidavit filed by the petitioners it is very clear that the posts have been kept vacant for a long time.

It is also to be seen from the material available on record that the stand taken in the additional affidavit filed before this Court in W.P. No. 13940 of 2007 is contrary to the stand taken before the Tribunal and it has been stated in the additional affidavit that in view of the repatriations as per G.O.Ms.No. 610, G.A(SPF.A) Department dated 30.12.1985, it is not known the exact seniority of the Officers to which zones they have been repatriated. As rightly contended by the learned counsel for the respondents, the applicability of G.O.Ms.No. 610 is nothing to do with the preparation

of seniority list as directed by the Tribunal. We make it clear that we do not want to express any opinion with regard to G.O.Ms.No. 610, as that is not the subject matter in the present writ petitions. But, however, the material placed before this Court and the Tribunal goes to show that the Department has taken a contrary stand in the counter filed before the Tribunal and in the additional affidavit filed before this Court. The stand taken by the Department in the counter before the Tribunal is contrary to the stand taken before this Court with regard to the same subject matter. We are also of the opinion that the submission made in the additional affidavit that no temporary promotions to the post of DSPs is under consideration now is completely contrary to the stand taken before the Tribunal. Under the above circumstances, we are of the opinion that it would suffice if a direction is issued to the Department to consider effecting temporary promotions to the posts of Deputy Superintendents of Police from the Sub-Inspectors of 1978 batch as it has been brought to the notice of this Court that the number of posts available are more than the candidates eligible for promotion.

For the above reasons, we are not inclined to accept the contentions raised by the petitioners and having regard to the facts and circumstances of the case, the writ petitions are disposed of directing the petitioners to consider giving promotions to the posts of Deputy Superintendents of Police on temporary basis for the Sub-

Inspectors of Police of 1978 batch in accordance with the Rules even though the final seniority list is not prepared basing on the provisional seniority list. As the period granted by the Tribunal has already expired by 17.6.2007 and already four weeks elapsed, having regard to the facts and circumstances we direct the petitioners to complete the entire exercise by 31st July, 2007.

T. MEENA KUMARI, J.

G.

CHANDRAIAH, J.

Date: 13-07-2007.

MVB.